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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,830	09/08/2003	Han Chang Hsieh	9188.226US01	2856
23552	7590	05/05/2004		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER ABBOTT, YVONNE RENEE				
ART UNIT		PAPER NUMBER		
3644				

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,830

Applicant(s)

HSIEH ET AL.

Examiner

Yvonne R. Abbott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/8/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because in lines 5 and 6, the word "said" should be omitted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. Claims 2, 4-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

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matter which applicant regards as the invention. In claims 2, 4-8 and 10, the word "tank" (and "tanks" in claim 10) lacks prior antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Pucci (5,090,357). Pucci discloses a background setting for an aquarium having front and rear walls (1,3) and opposite left and right side walls (5,7), comprising a water-resistant background sheet (17,23) bearing a background scenery (col. 2, lines 28-31) for direct submersion in the water of the aquarium to cover the rear wall, and a fixture for fixing the background sheet inside the aquarium, wherein the fixture comprises elongated members (9, 13, 19) which form a slot or groove for holding an edge of the background sheet.

6. Claims 1,3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank (4,006,711). Frank discloses a liner or background setting for an aquarium having front and rear walls and opposite left and right side walls, comprising a water-resistant background sheet (22) bearing a background scenery for direct submersion in the water of the aquarium to cover the rear wall, and a bottom fixture (20) for fixing the background sheet inside the aquarium, wherein the background sheet is arranged

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to cover also the left and right side walls by means of side pieces (34, 36); and wherein the background sheet is arranged to extend from a front left corner of the aquarium and close to the left wall, then turns smoothly to the rear wall and extends therealong, then turns smoothly to the right wall and extends close thereto, and finally terminates at a front right corner of the aquarium.

7. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wenzel (3,059,091). Wenzel shows a background setting for an aquarium having front and rear walls and opposite left and right side walls, comprising a water-resistant background sheet (22) bearing a background scenery for direct submersion in the water of the aquarium to cover the rear wall, and a fixture for fixing the background sheet inside the aquarium, wherein the fixture comprises a removable mount (24) fixedly supporting the background sheet thereon before they are positioned inside the aquarium.

8. Claims 1,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudolph (6,422,175). Rudolph a background setting for an aquarium having front and rear walls and opposite left and right side walls, comprising a water-resistant background sheet (11) for bearing a background scenery for direct submersion in the water of the aquarium to cover the rear wall, and a fixture for fixing the background sheet inside the aquarium, wherein the fixture comprises a removable mount (17) fixedly supporting the background sheet thereon before they are positioned inside the aquarium; wherein the mount comprises a planar middle section for extending over the

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rear wall and opposite left and right side sections curved smoothly therefrom for extending over the left and right side walls (Fig. 4).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pucci.

Although Pucci shows an aquarium having a background sheet having an edge held by a fixture comprising a groove, it is not shown that the fixture is provided at the bottom of the aquarium. It would have been obvious to one of ordinary skill in the art to provide that the slots formed by members (9,13, and 19) on the side of the Pucci aquarium be located on the bottom of the tank to further secure the background sheet within the aquarium.

11. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel in view of Terry et al. (6,327,997). Wenzel shows a background setting for an aquarium comprising a water-resistant background sheet (22) bearing a background scenery for direct submersion in the water of the aquarium to cover the rear wall, and a fixture for fixing a top edge of the background sheet to the inside of the aquarium. Wenzel, however, does not disclose that the fixture comprises a plurality of suction members for holding a top edge of the background sheet to the aquarium, wherein the

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sheet has holes for engagement by the suction members. Terry et al. teaches an aquarium (20) having pictures (36) attached to the inside rear wall of the aquarium wherein the back surface (48) of the picture (36) includes a plurality of suction cups (50) for attaching the picture to the aquarium. It would have been obvious to one of ordinary skill in the art to provide that the picture taught by Wenzel is attached via the suction cups taught by Terry et al. since it is well known that suction cups, clips, and other fasteners are alternate equivalent attachment means, and suction fasteners are typically used in moist environments (such as on bath mats). To place holes through the background sheet to attach the suction cups also would have been obvious as an obvious means to more securely fasten the suction devices to the sheet.

Allowable Subject Matter

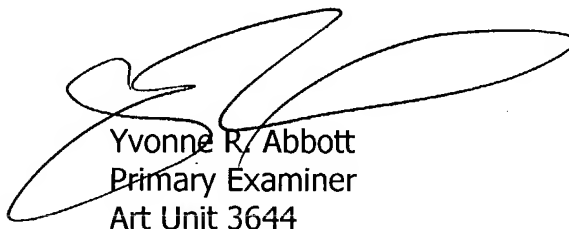
12. Claims 5 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on 7:30-5:00 flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703)306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
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